



Judgment

apl1482.25

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

CRIMINAL APPLICATION APL NO.1482 OF 2025

Sachin s/o Chandramani
Wankhede, aged about 38 years,
occupation: Advocate, r/o Malani
Complex, Murtizapur, district
Akola. **Applicant.**

:: VERSUS ::

1. State of Maharashtra,
through the Police Station
Officer, Police Station,
Murtizapur, district Akola.
2. Anti Corruption Bureau, Akola.
3. Rajesh Ramdasji Kambe,
age: 60, occupation: Dentist,
r/o in front of HDFC Bank, Main
Road, Murtizapur, district Akola. **Non-applicants.**

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Shri Parvez Mirza, for Applicant.
Mrs.M.A.Barabde, APP for NA No.1/State.
Shri M.Hussain, Counsel for NA No.3.

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CORAM : **URMILA JOSHI-PHALKE, J.**
RESERVED ON : **23/02/2026**
PRONOUNCED ON : **10/03/2026**

JUDGMENT

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1. Heard learned counsel appearing for the respective parties. **Admit.** Heard finally by consent.

2. By this application, the present applicant is seeking quashing of FIR in connection with Crime No.29/2018 registered with non-applicant No.1 police station for offences under Sections 7, 12, and 15 of the Prevention of Corruption Act, 1988 (the P.C.Act) and consequent proceedings arising out of the same bearing Final Report No.111/2023 and ACB Case No.128/2023 pending before learned Special Court, District Judge-III, Akola.

3. Brief facts for disposal of the application are as under:

The crime is registered on the basis of a report lodged by ACB Officer Ishwar D.Chauhan on allegations that original complainant Rajesh Ramdasji Kambe approached the ACB Officer and filed a complaint that his son was arrested in connection with Crime No.1/2018 under Section 376 of the IPC and he was taken into the

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police custody. For providing him good facilities in jail, co-accused Deepak Tayde, through the present applicant, demanded amount initially Rs.5.00 lacs and after negotiation, Rs.1,25,000/-. After receipt of the complaint, the ACB Officer called two panchas. In presence of panchas, original complainant Rajesh Kambe disclosed his grievance. Thereafter, verification panchanama was drawn. During communication between said original complainant Rajesh Ramdasji Kambe and the present applicant, the present applicant has disclosed that for providing better facilities to his son, the amount is to be given to the police officer and Police Officer Deepak Tayde has demanded amount. During verification panchanama, it revealed that the present applicant has demanded amount for Police Officers Gaikwad and Deepak Tayde and thereby the present applicant has committed the offence of “abetment” as well as offence under Section 7 of the P.C.Act by demanding gratification amount for public servant.

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On the basis of the said report, the police have registered the crime against the present applicant.

During the investigation, the investigating officer has recorded relevant statements of witnesses, obtained “Voice Sample” of the present applicant as well as other co-accused and forwarded the same for analysis. A proposal for sanction has already been proposed and after completion of the investigation, he submitted chargesheet against the present applicant as well as the co-accused.

4. During pendency of this application, a settlement took place between original complainant Rajesh Kambe and the present applicant and the said original complainant filed an affidavit to that effect.

5. The present application is filed on two grounds:

First ground is that, there is a settlement between original complainant Rajesh Kambe and the present applicant.

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In view of that, the FIR deserves to be quashed.

Second ground is that, Sections 7, 12, and 15 of the P.C.Act are not attracted against the present applicant.

It is contended that in view of Section 7 of the New Act, i.e. the P.C.Act, 1988, requirement is that any public servant who obtains or accepts or attempts to obtain from any person, an undue advantage, with an intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another person and, therefore, the present applicant is not “public servant” and, therefore, Section 7 of the P.C.Act is not attracted.

Similarly, Section 12 of the P.C.Act is for “punishment for abetment of offences” and Section 15 of the P.C.Act is for “punishment for attempt” to commit offence clause (a) of sub-section (1) of Section 13, which

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are also not attracted and, therefore, the FIR deserves to be quashed.

6. Learned counsel for the present applicant submitted that Section 7 of the P.C.Act is substituted by way of an amendment which came into effect on 26.7.2018. Whereas, the alleged incident is prior to the said amendment.

The FIR in the present case is lodged on 29.1.2018 and, therefore, Section 7 of the Prevention of Corruption Act, 1988 is not applicable in the present case.

He submitted that the present applicant is neither a “public servant” nor there is an attempt to accept the gratification amount or any undue advantage from any person as a reward for improper or dishonest performance of a public duty.

He invited my attention towards Section 7 of the P.C.Act and submitted that the said Section deals with

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circumstances that public servant taking gratification other than legal remuneration in respect of an official act. It states that whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions, favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person is said to have committed offence punishable under Section 7 of the P.C.Act.

He submitted that Section 12 of the P.C.Act deals with “punishment for abetment of offence”. The said Section is reproduced for reference as under:

“12. Punishment for abetment of offences.

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Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than three years, but which may extend to seven years and shall also be liable to fine.”

He submitted that the said Section is also substituted by way of amendment which came into effect from 26.7.2018 and, therefore, this Section is also not applicable to the present applicant.

Section 15 of the P.C.Act deals with “punishment for attempt”. The said Section is also not attracted against the present applicant.

7. In support of his contentions, learned counsel for the applicant has placed reliance on following decisions:

- 1. K.R.Ramesh vs. CBI, reported in Kerala High Court vs. 2020 SCC OnLine Kerala 2529; and**
- 2. Shivaji Dattatraya Davbhat vs. The State of Maharashtra, reported in 2022 ALL MR (Cri) 283.**

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8. *Per contra*, learned APP for the State strongly opposed the said contentions and submitted that old Section 7 of Prevention of Corruption Act, 1988 deals with public servant taking gratification other than legal remuneration in respect of an official act and Section 8 takes care of corrupt practice by any person. She submitted that even if it is accepted that that wrong Section is applied by the investigating agency, the court has every right to sift material and apply proper Section while framing of charge.

She submitted that communication of the present applicant with the original complainant squarely covers aspect of “abetment”. Old Section 12 of the PC Act, 1988, prior to amendment, also deals with aspect that whoever abets any offence punishable under Section 7 of Section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a

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term which shall be not less than six months but which may extent to five years and shall also be liable to fine.

She submitted that thus, irrespective of the commission of the offence, if any person abets any offence under Section 7 or 11, the act is punishable under Section 12 of the P.C.Act and, therefore, the offence under Section 8 as well as offence under Section 12 of the P.C. Act, 1988 is made out.

She submitted that the Voice Sample obtained of the applicant was analyzed during the analysis and the report received from analyst shows that it matches. Therefore, a *prima facie* case is made out against the present applicant.

In view of that, the application deserves to be rejected.

9. After hearing both sides, it reveals that the crime is registered on the basis of information received by the ACB Officer from original complainant Rajesh Kambe that his

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son is arrested in connection with Crime No.1/2018 under Section 376 of the IPC and he was taken into the police custody. For providing him good facilities in jail, Police Officers Deepak Tayde and Gaikwad, through the present applicant, demanded gratification amount to the tune of Rs.1.00 lacs to Rs.1,25,000/-.

10. Needless to mention that the present applicant is Advocate by profession and was representing son of the original complainant before the trial court. The investigating agency, on the basis of the complaint lodged by the original complainant, verified the same by drawing verification panchanama. During the verification panchanama, the communication of the present applicant and the original complainant was recorded. From the said communication, it is crystal clear that the communication is in the nature of giving gratification amount to the police officer for providing better facilities to the son of the original complainant. The verification panchanama shows

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that the present applicant has attempted to convince the original complainant for payment of money. The relevant communication, is reproduced as under:

“वानखडे वकील : जावू दया म्हणे मग तो असा म्हणेल की तुमचे एकही सोडा म्हणे मी माझे एक तीस ही सोडतो जावू दया म्हणे एक वीस देवून टाकजा म्हणे आता मह काहीच नाही बोलत म्हणे १४.२० अस केलं.”

“तसं त्यांना पुर्ण हातात आपल्याला दयावच लागते ते कस आहे ते डिपार्टमेंट आता हे पन्नास घेतील ते कोणाले देतील ते साहेबांना देतील की स्वतः ठेवतील की, आय ओ नां देतील.”

11. Thus, from the verification panchanama, it reveals that the present applicant, who was representing the son of the original complainant as defence counsel in the trial, had communicated the original complainant as to the demand of the investigating officer for providing better facilities to his son. Thereafter, Voice Sample of the applicant was obtained and Voice Sample panchanama is on record. The Voice Sample Report specifically shows that, “*the auditory analysis of the recorded questioned*

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voice exhibits of speaker marked Ex-1/11, Ex-4/1, and the specimen voice exhibit of speaker marked Exh-7/1 and subsequent spectrographic analysis revealed that, the questioned voice exhibits of speaker Ex-1/1, Exh-4/1 matches with the specimen voice exhibit of speaker marked Ex-7/1, (said to Mr.Sachin Chandramani Wankhade), i.e. the present applicant.”

12. Thus, not only the verification panchanama but also the Voice Sample collected and analyzed matches with the voice recorded during the communication with the Voice Sample of the present applicant.

13. The original complainant has specifically alleged that it was the present applicant who has communicated him regarding the demand of the investigating officer who was investigating the crime. The communication between the present applicant and the original complainant also substantiates the same.

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14. Firstly, I would like to advert issue regarding the settlement between the original complainant and the present applicant.

15. The original complainant has filed his reply on record wherein he contended that in a hit of moment, under confusion, he has lodged the report against the present applicant as “abettor”. Due to misunderstanding and misconception, he has named the present applicant as accused in the complaint and, therefore, he has no objection to quash the FIR.

16. It is to be seen that, whether FIR lodged alleging the offence under the P.C.Act can be quashed on the basis of compromise.

17. The Hon’ble Apex Court, in the case of **The State of Madhya Pradesh vs. Laxmi Narayan and ors**, reported in (2019)5 SCC 688, by referring earlier decisions in the cases of **Gian Singh vs. State of Punjab**, reported in (2012)10

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SCC 303 and Narinder Singh vs. State of Punjab, reported in (2014)6 SCC 466, observed that, “the offences alleged to have been committed under special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

It has been further observed that, “the power conferred under Section 482 of the Code to quash the criminal proceedings for the non-compoundable offences under Section 320 of the Code can be exercised having overwhelmingly and predominantly the civil character, particularly those arising out of commercial transactions or arising out of matrimonial relationship or family disputes and when the parties have resolved the entire dispute amongst themselves.”

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It is specifically observed that, “similarly, such power is not to be exercised for the offences under the special statutes like Prevention of Corruption Act or the offences committed by public servants while working in that capacity are not to be quashed merely on the basis of compromise between the victim and the offender.”

18. Here, the observations of the Hon’ble Apex Court in the case of **The State of Chhattisgarh vs. Aman Kumar Singh and ors, reported in AIR 2023 SC 1414** are relevant wherein in paragraph No.49 it is observed as under:

“49. We preface our discussion, leading to the answers to the above two questions, taking note of a dangerous and disquieting trend that obviously disturbs us without end. Though it is the preambular promise of the Constitution to secure social justice to the people of India by striving to achieve equal distribution of wealth, it is yet a distant dream. If not the main, one of the more prominent hurdles for achieving progress in this field is undoubtedly ‘corruption’. Corruption is a malaise, the presence of which is all pervading in every walk of life. It is not now limited to the spheres of activities of

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governance; regrettably, responsible citizens say it has become a way of one's life. Indeed, it is a matter of disgrace for the entire community that not only on the one hand is there a steady decline in steadfastly pursuing the lofty ideals which the founding fathers of our Constitution had in mind, degradation of moral values in society is rapidly on the rise on the other. Not much debate is required to trace the root of corruption. 'Greed', regarded in Hinduism as one of the seven sins, has been overpowering in its impact. In fact, unsatiated greed for wealth has facilitated corruption to develop like cancer. If the corrupt succeed in duping the law enforcers, their success erodes even the fear of getting caught. They tend to bask under a hubris that rules and regulations are for humbler mortals and not them. To get caught, for them, is a sin. Little wonder, outbreak of scams is commonly noticed. What is more distressing is the investigations/inquiries that follow. More often than not, these are botched and assume the proportion of bigger scams than the scams themselves. However, should this state of affairs be allowed to continue? Tracking down corrupt public servants and punishing them appropriately is the mandate of the P.C.Act. "We the people", with the adoption of our Constitution, had expected very high standards from people occupying positions of trust and responsibility in line with the Constitutional

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ethos and values. Regrettably, that has not been possible because, inter alia, a small section of individuals inducted in public service for 'serving the public' appear to have kept private interest above anything else and, in the process, amassed wealth not proportionate to their known sources of income at the cost of the nation. Although an appropriate legislation is in place to prevent the cancer of corruption from growing and developing, wherefor maximum punishment by way of imprisonment for ten years is stipulated, curbing it in adequate measure, much less eradicating it, is not only elusive but unthinkable in present times. Since there exists no magic wand as in fairy tales, a swish of which could wipe out greed, the Constitutional Courts owe a duty to the people of the nation to show zero tolerance to corruption and come down heavily against the perpetrators of the crime while at the same time saving those innocent public servants, who unfortunately get entangled by men of dubious conduct acting from behind the screen with ulterior motives and/or to achieve vested interests. The task, no doubt, is onerous but every effort ought to be made to achieve it by sifting the grain from the chaff. We leave the discussion here with the fervent hope of better times in future."

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19. Thus, in the light of the observations of the Hon'ble Apex Court, it would not be in the interests of justice to quash the FIR relating to corruption only on the basis of compromise between the present applicant and the original complainant.

20. Coming to another aspect regarding application of Sections 7 and 12 in view of the Old P.C.Act of 1988.

21. Section 7 of the Old P.C.Act of 1988 deals with “public servant taking gratification other than legal remuneration in respect of an official act”, which is reproduced as under:

“7. Public servant taking gratification other than legal remuneration in respect of an official act. -

Whoever, being, or expecting to be a public servant, accepts or obtains or agrees to accept or attempts to obtain from any person, for himself or for any other person, any gratification whatever, other than legal remuneration, as a motive or reward for doing or forbearing to do any official act or for showing or forbearing to show, in the exercise of his official functions,

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favour or disfavour to any person or for rendering or attempting to render any service or disservice to any person, with the Central Government or any State Government or Parliament or the Legislature or any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment which shall be not less than six months but which may extend to five years and shall also be liable to fine.

Explanation. - (a) “Expecting to be a public servant”. If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this section.

(b) “Gratification”. The word “gratification” is not restricted to pecuniary gratifications or to gratifications estimable in money.

(c) “Legal remuneration”. The words “legal remuneration” are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government or the organization, which he serves, to accept.

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(d) “A motive or reward for doing”. A person who receives a gratification as a motive or reward for doing what he does not intend or is not in a position to do, or has not done, comes within this expression.

(e) Where a public servant induces a person erroneously to believe that his influence with the Government has obtained a title for that person and thus induces that person to give the public servant, money or any other gratification as a reward this service, the public servant has committed an offence under this section.”

22. Section 8 of the Old P.C.Act of 1988 deals with taking gratification, in order, by corrupt or illegal means, to influence public servant, which is reproduced below as under:

“8. Whoever accepts or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by corrupt or illegal means, any public servant, whether named or otherwise, to do or to forbear to do any official act, or in the exercise of the official functions of such public

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servant to show favour or disfavour to any person, or to render or attempt to render any service or disservice to any person with the Central Government or any State Government or Parliament or the Legislature of any State or with any local authority, corporation or Government company referred to in clause (c) of section 2, or with any public servant, whether named or otherwise, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.”

23. Section 12 of the Old P.C.Act of 1988 deals with punishment for abetment of offences defined in section 5 or 11, which is reproduced below as under:

“**12.** Punishment for abetment of offences defined in section 7 or 11. - Whoever abets any offence punishable under section 7 or section 11 whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall not not less than six months but which may extend to five years and shall also be liable to fine.”

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24. Admittedly, the “abetment” is not defined under the P.C.Act, but the “abetment” is defined under Section 107 of the IPC, which states that, a person abets the doing of a thing, who (i) instigates any person to do that thing; or (ii) engages with one or more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or (iii) intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation-1 to Section 107 of the IPC states that a person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

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25. In order to constitute “abetment”, the abettor must be shown to have intentionally aided the commission of the crime.

26. After going through the definition of “abetment” and essential ingredients, admittedly, the act of the present applicant covers under Explanation-1 to Section 107 of the IPC and, therefore, the application of Section 12 of the P.C.Act against the applicant sustains.

27. Admittedly, Section 7 of the P.C.Act deals with acts by public servants.

28. The applicant, who is lawyer by profession, is not a “public servant” within the definition of “public servant” given under Section 2(c) of the P.C.Act.

29. The legal profession is a challenging one, which is also called as 'noble' and its practitioners are regarded as honourable members. An advocate shall, at all limits, comfort himself in a manner befitting his status as an

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officer of the court, a privileged member of the community, and a gentleman, bearing in mind that what may be lawful and moral for a person who is not a member of a Bar, or for a member of a bar in his non-professional capacity may still be improper for an Advocate, as per the preamble of Chapter II Part VI of Bar Council of India Rules, 1961. The said preamble further states, that without prejudice to the generality of the forgoing obligation, an Advocate shall fearlessly uphold the interest of his client, and in his conduct conform to the rules here in after mentioned both in letter and in spirit. The rules hereinafter mentioned contains cannon of conduct and etiquette adopted by general guides; yet the specific mention thereof shall not be construed as a denial of the existence of other equally imperative though not specifically mentioned. Thus, role of a lawyer in the society is basically to help an individual to find the best way to redress a dispute or prevent one from occurring and not to loot their money. There should be a

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feeling in the mind set of clients that, consulting a lawyer promptly should help them avoid a wide range of problems and reduce financial losses and not otherwise, as is prevalent as on date. Legal profession is a service-oriented profession. It should always be remembered that, a Lawyer is a representative of clients or a neutral third party, an Officer of the legal system and a public citizen having special responsibility for the quality of justice. Though, it is difficult for a Lawyer to protect the interests of their clients in toto, independence is the key for providing unbiased advice and representation to a client. Lawyers must also maintain the highest standards of honesty, integrity and fairness towards clients, Court, other lawyers and members of the public, including fulfillment of any undertaking given in the course of their practice.

30. In the light of the above said duties casted upon the lawyers who are in noble legal profession from whom utmost integrity and loyalty is expected.

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31. The above act of the present applicant is not befitting in the said principles.

32. In view of the above discussion, the offence is made out against the present applicant under Section 12 of the P.C.Act.

Admittedly, offences are not made out against him under Sections 7 and 15 of the P.C.Act.

33. As already observed, powers are not to be exercised for offence under the special statute like the Prevention of Corruption Act or the offences committed by public servants while working in that capacity under Section 482 of the CrPC or 528 BNSS merely on the basis of compromise between victim and offender.

34. Considering the Constitutional Courts owe a duty to the people of the nation to show zero tolerance to corruption and in view of the observations of the Hon'ble Apex Court in the case of **The State of Chhattisgarh vs.**

Aman Kumar Singh and ors *supra*, this is not a fit case wherein the said powers can be exercised in favour of the present applicant.

35. The parameters laid down by the Hon'ble Apex Court for the purpose of quashing of FIRs, if applied to the present case, admittedly, there is a *prima facie* case against the present applicant as far as the 'abetment' is concerned and, therefore, the application deserves to be rejected and the same is **rejected** accordingly.

Application stands **disposed of**.

(URMILA JOSHI-PHALKE, J.)